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**THE HONORABLE BRIAN D. LYNCH  
CHAPTER 13**

**HEARING DATE: April 14, 2022**

**HEARING TIME: 1:30 P.M.**

**LOCATION: Tacoma**

**RESPONSE DATE: April 7, 2022**

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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In Re:

JASON ALBERT OVERTON and  
ROSEMARENA MAE OVERTON,

Debtors.

Case No.: 17-40242-BDL

NOTICE OF HEARING AND MOTION FOR  
DETERMINATION OF FINAL CURE AND  
PAYMENT

**NOTICE**

**YOU ARE HEREBY NOTIFIED** that a hearing on Trustee's Motion for  
Determination of Final Cure and Payment will be heard before the Honorable Brian D. Lynch at  
**1:30 P.M. on April 14, 2022**, at the U.S. Bankruptcy Courthouse, 1717 Pacific Avenue,  
Courtroom I, Tacoma, WA 98402.

**IF YOU OPPOSE** this motion, you must file your written response with the Court  
Clerk and deliver copies on the undersigned and all interested parties, **NOT LATER THAN**  
**THE RESPONSE DATE**, which is **April 7, 2022**. You should also appear at the time of

NOTICE OF HEARING AND MOTION FOR  
FINAL CURE AND PAYMENT

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Michael G. Malaier  
Chapter 13 Standing Trustee  
2122 Commerce Street  
Tacoma, WA 98402  
(253) 572-6600

1 hearing. If you fail to do so, the Court may enter an order granting the motion without any  
2 hearing and without further notice.

3 **MOTION**

4 **COMES NOW**, Michael G. Malaier, the Chapter 13 Standing Trustee, and hereby  
5 requests the Court make determination of final cure and payment pursuant to Fed. R. Bankr. P.  
6 3002.1(h) as follows:


7 Debtors' Chapter 13 plan was confirmed on April 14, 2017, providing for payment of the  
8 claim of Wells Fargo Mortgage (ECF No. 7) which was later transferred to Rushmore Loan  
9 Management Services ("Creditor") (ECF No. 51) to be made through the plan.

10 According to Trustee's records at the time of filing this Motion, Debtors are current on  
11 their pre and post-petition mortgage payments through April, 2022, with the next mortgage  
12 payment due May 2, 2022. *See* Declaration of Tracy Maher. Trustee's records reflect that  
13 Debtors' pre-petition mortgage arrears have been paid in full. *Id.* Since the Debtors' plan was  
14 confirmed, a total of \$120,753.48 has been disbursed to Creditor. Additional payments may be  
15 disbursed prior to the hearing.  
16

17 Trustee has reached out to Creditor to determine the basis of the claimed difference in  
18 accounting, but to date, has not received any response. The only issue preventing closure of this  
19 case and issuance of Trustee's Final Report is a determination as to the post-petition status of  
20 Creditor's claim. It is prejudicial to the Debtors to allow Creditor to prevent the closure of this  
21 case based on the assertion of an unsupported discrepancy and instead raise the issue after all  
22 payments have been made under the plan.  
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2       **WHEREFORE** the Trustee respectfully requests that the Court make a determination  
3 that the Debtors have cured the default and made all ongoing payments under the terms of the  
4 plan and that the loan is current through April, 2022, as of the date of this motion.

5       **DATED** this 18<sup>th</sup> day of March, 2022.

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9 Mathew S. LaCroix, WSBA #41847 for  
10 Michael G. Malaier, Chapter 13 Trustee  
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